



Appeal Decision

Site visit made on 28 October 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Appeal Ref: APP/P1805/W/22/3292600

Land Adjacent Houndsfield Industrial Estate, Houndsfield Lane, Hollywood, B47 5QR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Raphael McGee against the decision of Bromsgrove District Council.
 - The application Ref 19/00266/FUL, dated 21 February 2019, was refused by notice dated 26 August 2021.
 - The development proposed is the change of use of land and building to form new training facility including removal/cessation of all activities associated with recycling waste materials.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During my site visit I viewed that the change of use had occurred, and the site was in full use as a training facility. As such, permission is sought in retrospect.
3. A Noise and Dust Management Plan has been submitted with the appeal. Whilst this was not submitted with the application the Council and third parties have had the opportunity to comment on its contents. As such, I do not consider that my taking it into account would prejudice any party.

Main Issues

4. The main issues are;
 - Whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - Whether the proposed development would comply with national and local planning policies which seek to steer new development away from areas at highest risk of flooding;
 - The effect of the proposed development on the living conditions of nearby residents; and,
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

Whether Inappropriate Development and Openness

5. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further identifies certain other forms of development that are also not inappropriate provided they preserve the openness and do not conflict with the purposes of including land within it. Paragraph 150 of the Framework identifies engineering operations, the re-use of buildings provided that the buildings are of permanent and substantial construction and material changes in the use of land as examples of such forms of development.
6. The site was previously a tip which has since been capped, remediated, and landscaped. The Councils submission details that the land thereon appeared as an undeveloped site. The appellants submission details that since the remediation of the site it was used for waste transfer. The appellant has provided details of Environment Agency exemptions relating to waste and aerial photographs. Whilst the appellants submission details a waste transfer use, the evidence is scant and provides limited detail over the previous use at the site. In any event, the evidence details skips around an existing building set to the front of green open land.
7. The development involves the change of use of land and a building to a construction training facility. It would also involve the construction of a parking area comprising sixteen parking spaces (including two disabled bays). A tree line is proposed to screen the training area from the nearby highway. The existing building would be used to deliver classes with the remaining area of land used to deliver practical training, such as use of construction vehicles and training for railway lines.
8. It is common ground between the main parties that the development would involve the re-use of a building that is of permanent and substantial construction and the change of use of land. Additionally, the construction of the car parking area would be considered as an engineering operation. The development would therefore fall to be considered under Paragraph 150 of the Framework. As such, in order to determine whether the development would be inappropriate development I am required to consider the effect on openness.
9. The activity associated with the appeal scheme would include the training of up to 120 individuals at one time. This would include lessons in the building, the use of the wider site for construction training and utilising large vehicles and machinery. This would be likely to be much more intensive than that arising from the previous use as a remediated tip. Even if I were to consider the previous waste transfer use, from the evidence submitted this did not appear to be as intensive a use as the appeal scheme.
10. It would also lead to parked vehicles and machinery, construction material and other structures which would also impinge on its visual openness compared to the previous situation. The reduced openness would be readily experienced when walking or driving along Houndsfield Lane and in the wider landscape.

The size of the site combined with the activity associated with the use would fail to safeguard the countryside from encroachment, one of the five purposes for a Green Belt designation.

11. During my site visit I noted that several buildings had been constructed around the existing building providing additional functionality for the facility including welfare facilities and clothing store. Additionally hardcore footpaths had been laid out around the site to provide access. The area around the existing building had also been landscaped with gravel, paving slabs, and fencing. The Council has made reference to the additional work at the site in their submission, however I can only deal with the matter before me, which is the change of use of land and existing building and provision of parking area.
12. For the above reasons, I conclude that the development does not preserve the openness of the Green Belt. The proposal therefore does not fall within the forms of development at paragraph 150 of the Framework and as such is inappropriate development in the Green Belt.

Flood Risk

13. Based upon the evidence before me, including a Flood Risk Assessment (FRA) provided by the appellant, the Environment Agency (EA) Flood Maps identify part of the site lies within Flood Zone 3 (high probability) with the remainder in Flood Zone 1 (low probability). The access to the site, car parking area and existing building lie wholly within Flood Zone 3. The appellant has provided a topographical survey of the site. In the absence of any alternative hydraulic model, I have assessed the development in terms of the extent of high and medium probability of flooding identified within the site by the EA Flood Maps as it is based upon the most accurate and robust evidence available. No level changes are proposed as part of the appeal scheme.
14. Bromsgrove District Plan (2017) (BDP) Policy BDP23 requires that developments address flood risk from all sources. The policy states that where inappropriate developments in areas at risk of flooding are necessary the sequential test is applied. Whilst the development is classified more vulnerable and would be partially located within Flood Zone 3, Paragraph 168 of the Framework states that applications for change of use should not be subject to the sequential or exception test.
15. However, the Planning Practice Guidance (PPG)¹ states that a change of use may involve an increase in flood risk if the vulnerability of the development is changed. It goes on to state the acceptability of developments would likely depend on whether they can be designed to be safe and there is adequate emergency planning provision.
16. The submitted FRA details the predicted flood levels at the site, greenfield run off rates and emergency measures. The predicted flood levels, amended for climate change, would be some three metres lower than the lowest section of the appeal site. As such, based on these calculations the appeal site would likely remain free from flooding. The FRA details the appellants intention to sign up to the EA Flood Warning Service and provide an emergency access route.

¹ Paragraph: 014 Reference ID: 7-014-20220825

17. The Council are concerned that the emergency access does not form part of the appeal. The access would be provided through an adjoining field and on to Houndsfield Lane to the west of the site. Whilst this is not within the red outline it is within the same ownership as the appeal site and a condition could be attached requiring this to be provided.
18. Whilst a drainage plan has not been submitted with the appeal, the FRA details the runoff at the site and detail that attenuation measures can be included. A detailed drainage design could be secured by conditions.
19. Whilst some detailed information has not been provided with the submission, this could be conditioned, were I minded to allow the appeal.
20. For the reasons set out above I consider that the development would generally comply with the flood protection aims of BDP Policy BDP23 which seeks, amongst other things, to ensure that developments address flood risk. It would also comply with Paragraph 167 of the Framework which seeks to ensure that development is appropriately flood resilient and any residual risk can be managed.

Living Conditions

21. The appeal site is located in an area of open countryside; however, it lies adjacent to an existing commercial development, Houndsfield Industrial Estate. Opposite the entrance to the development are two residential dwellings (Iona and Tonroe Cottages) and to the rear of these a gypsy and traveller site. Whilst a Noise and Dust Management Plan has been submitted with the appeal no technical evidence, such as noise assessments have been provided.
22. The development would seek to train up to 120 students on construction related from 0730 – 1700 Monday – Friday and 0800 – 1300 on Saturdays. Noise producing activities would include plant and machinery use on site and vehicle movements. In addition, there would be general noise from the comings and goings of students travelling to and from the site and from people before and after training and during breaks.
23. Concerns are also raised in relation to dust, in particular due to the sandy, loose, soil used in the remediation of the tip and the movement of construction vehicles over this. Additionally, dust could arise from material stockpiles, and vehicles carrying material from, to and within the site.
24. During the application the layout was amended to move the training activity away from the entrance of the site and nearby resident. The Council's Technical Services Officer offered no objection to the development with regards to noise and nuisance following these amendments. It is also proposed to undertake tree planting between the training area and the remainder of the site, which would buffer some of the noise.
25. During my site visit there were a number of classes being carried out, with vehicles reversing and manoeuvring across the site. Groups of students were congregated in the open areas around the existing building. Whilst I could hear vehicles moving and people chatting this was not the dominant noise in the area, which came from the neighbouring Industrial Estate. The distance between the training area and the nearby residential properties ensures that noise from plant and machinery is reduced.

26. Whilst the development has the potential to generate noise and dust, the submitted management plan detail measures to overcome this. Adherence with measures such as the sheeting or watering down of loose material and the operating hours of the site would limit its impact on nearby residents. Further mitigation in the form of planting and screening could ensure that dust and noise levels are further reduced, and this information could be sought via a condition.
27. I conclude that the proposed development would not harm the living conditions of the residents of Iona and Tonroe Cottages, with particular reference to noise and dust. The development therefore complies with BDP Policy BDP1.4 which seeks, amongst other things, to ensure that developments are compatible with adjoining uses and residential amenity. The proposed development would also comply with Paragraph 130 of the Framework that seeks high standards of amenity for existing users.

Other Considerations

28. The development would provide construction training for students across the West Midlands. The submission details the appellants work with low-income individuals as well as nearby prisons to provide individuals with a trade. The development is linked with a number of colleges and 25% of trainees live within 2 miles of the site and 50% within the wider West Midlands Combined Authority area.
29. The appellants submission details that training is provided for a wide variety of construction related activities, including railway construction, with some students gaining employment with HS2. The submission outlines the need for construction workers across the country, in particular with pressures on house buildings.
30. The location of the site is close to the railway with good links into the wider area. Additionally six jobs would be created at the site.

Green Belt Balance and Conclusion

31. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The development would be inappropriate development in the Green Belt. To this must be added further moderate harm arising from the loss of openness, and from being contrary to the purposes of including land within the Green Belt. Paragraph 148 of the Framework indicates that any harm to the Green Belt should be given substantial weight.
32. Very special circumstances will need to be demonstrated if developments are to proceed in the Green Belt. Whilst the appellant has outlined a number of benefits, detailed above, no information has been provided regarding the need to locate the development in this specific location. I have had regard to the information that the majority of Bromsgrove District Council area is within the Green Belt, however no information regarding employment allocations or land outside the Green Belt has been provided.
33. My analysis leads me to attach a moderate weight to the creation of a small number of jobs and the training of students. The substantial weight I have given to the Green Belt harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances.

34. For the reasons set out above, the development would be inappropriate development in the Green Belt as defined by the Framework. Whilst I have not found harm in relation to the impact of the development on the living conditions of nearby residents or on flood risk, the harm to the Green Belt provides a clear and overriding reason for refusing the development. I therefore conclude that the appeal should be dismissed.

Tamsin Law

INSPECTOR